



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-HQ-OAR-2012-0360; FRL-9946-32-OAR]**

**RIN 2060-AR47**

**National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations: Action Denying a Petition for Reconsideration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of action denying a petition for reconsideration.

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for reconsideration of a final rule published in the **Federal Register** on March 18, 2015. The rule promulgated amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP): Off-Site Waste and Recovery Operations (OSWRO) based on our residual risk and technology review (RTR) conducted for the OSWRO source category. The agency previously granted reconsideration of one issue raised in the petition. The Administrator denied the second issue raised in the petition in letters to the petitioners dated May 5, 2016.

**DATES:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Emily Seidman, U.S. EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue,

NW, Washington, DC 20460; telephone (202) 564-0906; email at [seidman.emily@epa.gov](mailto:seidman.emily@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. How Can I Get Copies of This Document and Other Related Information?**

This **Federal Register** document, the petition for reconsideration, and the letters granting and denying the petition for reconsideration are available in the docket the EPA established for the OSWRO NESHAP under Docket ID No. EPA-HQ-OAR-2012-0360. The document identification number for the petition for reconsideration is EPA-HQ-OAR-2012-0360-0128. The document identification numbers for the EPA's response letters are EPA-HQ-OAR-2012-0360-0122 and EPA-HQ-OAR-2012-0360-0123.

All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center (EPA/DC), Room 3334, EPA WJC West Building, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room

is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Air Docket is (202) 566-1742.

This **Federal Register** document, the petition for reconsideration, and the letters granting and denying the petition can also be found on EPA's Web site at <http://www.epa.gov/ttn/atw/offwaste/oswropg.html>. The amended OSWRO NESHAP was published in the **Federal Register** on March 15, 2015, at 80 FR 14248.

## **II. Judicial Review**

Section 307(b)(1) of the Clean Air Act (CAA) indicates which Federal Courts of Appeals have venue for petitions for review of final EPA actions. This section provides, in part, that the petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if: (i) The agency action consists of "nationally applicable regulations promulgated, or final action taken, by the Administrator," or (ii) such actions are locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

The EPA has determined that its denial of the petition for reconsideration is nationally applicable for purposes of CAA

section 307(b) (1) because the actions directly affect the OSWRO NESHAP, which is a nationally applicable regulation. Thus, any petitions for review of the EPA's decision denying the petitioners' request for reconsideration must be filed in the United States Court of Appeals for the District of Columbia Circuit by **[insert date 60 days after date of publication in the Federal Register]**.

### **III. Description of Action**

On March 18, 2015, the EPA promulgated a final rule amending the OSWRO NESHAP based on the RTR conducted for the OSWRO source category. 80 FR 14248, March 18, 2015. The EPA amended the OSWRO NESHAP to revise provisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance testing; to add monitoring requirements for pressure relief devices (PRDs); to revise routine maintenance provisions; to clarify provisions for open-ended valves and lines and for some performance test methods and procedures; and to make several minor clarifications and corrections. Subsequent to publishing the final rule, the EPA received a petition for reconsideration submitted jointly by Eastman Chemical Company and the American Chemical Council (dated May 18, 2015). This petition sought reconsideration of two of the amended provisions of the OSWRO NESHAP: (1) the equipment leak provisions for connectors, and

(2) the requirement to monitor PRDs on portable containers. The EPA considered the petition and supporting information along with information contained in the OSWRO NESHAP amendment rulemaking docket (Docket ID No. EPA-HQ-OAR-2012-0360) in reaching a decision on the petition. The Agency granted reconsideration of the PRD monitoring requirement in a letter to the petitioners dated February 8, 2016. In separate letters to the petitioners dated May 5, 2016, the Administrator denied reconsideration of the equipment leak provisions for connectors and explained the reasons for the denial in these letters. These letters are available in the OSWRO NESHAP amendment rulemaking docket.

Dated: May 5, 2016.

**Gina McCarthy,**

**Administrator.**

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